

SIKKIM

GOVERNMENT



GAZETTE

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GOVERNMENT OF SIKKIM
LAW AND PARLIAMENTARY AFFAIRS DEPARTMENT
GANGTOK

No. 11(656)L&PAD/2021/13

Date: 16.06.2023

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on the 08th June, 2023 is hereby published for general information:-

THE SIKKIM FIRE AND EMERGENCY SERVICES ACT, 2023

(ACT NO. 04 OF 2023)

AN

ACT

to provide for the maintenance of Fire and Emergency Service and to make more effective provisions for the fire prevention and fire safety measures in various types of buildings and premises in the State of Sikkim and the matters connected therewith.

Be it enacted by the Legislature of Sikkim in the Seventy-fourth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement

- (1) This Act may be called the Sikkim Fire and Emergency Services Act, 2023.
- (2) It shall extend to the whole of Sikkim.
- (3) It shall come into force in any area on such date as the State Government may, by notification in the Official gazette, appoint and different dates may be appointed for different areas and for different provisions of this Act.

2. Definitions

In this Act, unless the context otherwise requires,-

- (a) "Appellate Authority" means the Director, Fire and Emergency Service or any other Officer appointed by the State Government, who is at least two ranks higher than the Fire Officer;
- (b) "Building" shall have the same meaning assigned to it in the relevant municipal law or any law for the time being in force in the area in which this Act is in force and includes places or premises comprising land or building, or part of a land or building, whether authorized or otherwise, outhouses, if any, pertaining to such building or part thereof and petrol, diesel or gas lines, installations or pumps;
- (c) "Building bye-Laws" means the bye-laws, rules and regulations for buildings made under any relevant municipal law and includes the development control rules or regulations, by whatever name they are called, or any other building rules or regulations made under any other law for the time being in force as amended from time to time;
- (d) "Bye laws" means fire safety regulations or norms or guidelines made under National Building Code of India, Model Building Bye-laws, 2016 made by Government of India, Oil Industry Safety Directorate guidelines, Petroleum Act and Rules, Explosive Act and Rules of India relating to fire prevention, or any relevant guidelines by the State Government or local Authority as amended from time to time;
- (e) "Bureau of Indian Standard (BIS)" means National Standard body of India established under BIS Act, 1986 as amended from time to time;
- (f) "Director" means the Director of the Fire and Emergency Service appointed by the State Government under section 6 of this Act;
- (g) "Disasters" means disasters as defined in Disaster Management Act, 2005 as amended from time to time;
- (h) "Employee" means a person appointed to the Fire and Emergency Service under this Act;
- (i) "Emergency" means any serious situation or occurrence, including disasters, that happens unexpectedly and demands immediate action of Fire and Emergency Service of the State Government or Local Authority;
- (j) "Erector" means a person or association of persons, whether corporate or otherwise, who erects or makes a pandal or any structure for occupation of people on a regular or temporary basis;
- (k) "Fire Officer" means an officer appointed by the State Government for fire stations and other field formations as per the section 8 of this Act;
- (l) "Fire Station" means a building erected to house the fire-fighting equipment, appliances and staff, declared generally or specially by the State Government to be a Fire Station;
- (m) "Fire Prevention and Life Safety Measures" means such measures as are necessary in accordance with the National Building Code of India for the containment, control, and

extinguishing of fire and for ensuring the safety of life and property in case of fire and as may be prescribed in the rules made in this behalf;

- (n) "Fire Safety Officer" means the person appointed under section 26 of Chapter V of this Act by the owner or occupier of certain premises and buildings as specified in this behalf to ensure fire prevention and fire safety measures installed in such premises and buildings;
- (o) "Fund" means fund constituted under section 51 of this Act;
- (p) "Local Authority" means a municipal corporation, Nagar Panchayat, Municipality, Zilla Panchayat, Gram Panchayat, Notified Area Committee or Cantonment Board constituted under relevant local law;
- (q) "Local Fire and Emergency Service" means Local Fire and Emergency Service as may be notified by the State Government;
- (r) "National Building Code" means the book or books containing Fire Prevention and Life Safety Measures to be implemented in the buildings, places, premises, workshops, warehouses and industries, published from time to time by the Bureau of Indian Standards;
- (s) "Nominated Authority" means an officer not below the rank of a station officer nominated by the Director as a nominated authority for the purposes of this Act;
- (t) "Occupancy" means the principal occupancy for which a building or a part of the building is used or intended to be used including subsidiary occupancies which are contingent upon it;
- (u) "Occupier" means-
 - (i) any person who, for the time being, is paying or is liable to pay, to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;
 - (ii) an owner in occupation of, or otherwise using his land or building;
 - (iii) a rent-free tenant of any land or building;
 - (iv) a licensee in occupation of any land or building; and
 - (v) any person who is liable to pay to the owner damages for the use and occupation of any land or building;
- (v) "Owner" includes a person who, for the time being, is entitled to receive the rent of any land or building, whether on his own account or on account of himself and others or as an agent, trustee, guardian or receiver or any other person, or who should so receive the rent or be entitled to receive it if the land or building or part thereof were let to a tenant;
- (w) "Pandal" means a temporary structure with a roof or walls made of straw, hay, ulu grass, golpatta, hogla, darma, mat, canvas, cloth or other like material which is not adopted for permanent or continuous occupancy;

- (x) "Qualified agency" means a person or an association of persons having technical specialization in the field of Fire, Civil, Mechanical Engineering, Technology, Industrial Safety, Disaster Management or Chemical Science from a recognized university and having sufficient domain knowledge and accomplishments in the field of Fire Service. Qualified Agency shall also be called as Third Party Auditor;
- (y) "State Government" means the State Government of Sikkim;
- (z) "Standing Fire Advisory Council (SFAC)" means the advisory body constituted by the Union Ministry of Home Affairs to examine the technical problems relating to Fire Service and to make recommendation to the Government of India in the matter including the standardization of fire-fighting equipment through the Indian Standard Institutions;
 - (aa) "Second Appellate Authority" means an Officer appointed by the State Government, who is at least one rank higher than the Appellate Authority;
 - (bb) "Station Officer" means an officer of the fire service appointed as Station Officer by the Government;

CHAPTER II

ORGANIZATION, SUPERINTENDENCE, CONTROL AND MAINTENANCE OF THE FIRE AND EMERGENCY SERVICE

3. Establishment of one Fire and Emergency Service for whole of State

- (1) There shall be one Fire and Emergency Service for the whole of State and all officers and subordinate ranks of the Fire and Emergency Service shall be liable for posting to any branch of the Fire and Emergency Service:

Provided that, the State Government may, by notification in the Official Gazette, declare any Fire Brigade or any other Local Fire and Emergency Service of any local authority of the state, by whatever name called, that the same shall form or shall not form the part of State Fire and Emergency Service at any time;

Provided further that, this position shall not apply to the private Fire and Emergency Service maintained for providing fire protection coverage to a specific building or industry by the owner or occupier thereof.

- (2) Notwithstanding anything contained in this Act or any other law for the time being in force relating to the Local Authority, the State Government may, by notification in the Official Gazette, declare the services relating to any fire brigade or fire prevention a part of the State Fire and Emergency Service with effect from such dates as may be specified in the notification.
- (3) In order to assist any disaster, other than resulting due to fire, all Fire Services shall be considered as Emergency Services.

Provided that, in case where the emergency service is not related only to fire, the decisions and directions of the authority in charge of the Emergency Service shall prevail.

(4) Upon such declaration under sub-section 3(2)-

- (i) the officers and employees responsible for providing the Fire and Emergency Service in the areas of such Local Authority, shall be deemed to have been absorbed in the State Fire and Emergency Service, subject to such terms and conditions as may be notified;
- (ii) terms and conditions applicable to the employees after such absorption shall be such as may be decided by the State Government;
- (iii) All proceedings pending before any fire officer, immediately before the declaration shall be deemed to be proceeding pending before him in his capacity as the holder of the Office to which he is deemed to be appointed under sub-section (2);
- (iv) All assets, rights and liabilities relating to the Fire and Emergency Service of such local authorities shall stand transferred to the State Fire and Emergency Service, subject to such terms and conditions as the State Government may deem fit;
- (v) The State Government may take such necessary actions as it deems fit.

4. Superintendence of Fire and Emergency Service to vest in State Government

The superintendence of, and control over, the Fire and Emergency Service throughout the State shall vest in the State Government and shall be administered by the Director Fire and Emergency under the supervision and administrative control of Director General of Police in accordance with the provisions of this Act and / or rules made hereunder, through such Fire Officers as the State Government may, from time to time, appoint in this behalf.

5. Constitution and Classification of Fire and Emergency Service

- (1) Subject to the provisions of this Act, the State Fire and Emergency Service shall consist of such number of staff in various ranks having such powers, functions and duties as the State Government may, by general or special order, determine.
- (2) The State Government may prescribe in the rules –
 - (i) the different posts of the State Fire and Emergency Service;
 - (ii) the mode of recruitment of staff, grade of post, the qualification, pay, allowances and other conditions of service of the officers and other staff engaged therein and matters connected therewith;
- (3) The State Government may, by notification in the Official Gazette, review the pattern of the existing Fire and Emergency Service in the State and if deemed fit may modify the same;

Provided that, for local Fire and Emergency Service, the rules framed under this sub-section may not include mode of recruitment of staff, pay, allowances and matters connected therewith.

- (4) Save as otherwise provided by or under this Act, every person holding office either as a Fire Officer or a staff or an employee of an existing Fire Brigade or Fire and Emergency

Service of any Authority on the date immediately before the commencement of this Act, shall continue to hold office on the same terms and conditions as were applicable to him immediately before such date and shall exercise such powers and perform such duties as before and in addition to those as are conferred on them by or under this Act.

6. Appointment of Director of Fire and Emergency Service

- (1) The State Government shall appoint an officer not below the rank of Inspector General of Police as Director of Fire and Emergency Service, who shall function under the control and supervision of the Director General of Police (DGP).
- (2) The State Government shall appoint such other officers and staff, as may be necessary from time to time, to assist the Director while exercising the powers or discharging the duties or functions conferred under this Act or rules made hereunder.
- (3) The jurisdiction of the Director so appointed shall extend to the entire State in matters relating to Fire and Emergency Service.
- (4) Subject to the control, directions and superintendence of the State Government, the Director shall exercise such powers and perform such duties as are conferred and imposed upon him by this Act or the rules made hereunder.

7. Power, Duties and Functions of the Director

- (1) The Director shall, subject to the superintendence and control of the State Government, direct and regulate all matters of fire safety and prevention, fire-fighting equipment, machinery and appliances, training, observation of persons, events of mutual relations, distribution of duties, study of laws, orders and modes of proceedings and all matters of executive detail or the fulfillment of duties and maintenance of discipline of fire officers and employees of the Fire and Emergency Service under him, as per rules made hereunder.
- (2) Without prejudice to the provisions of sub-section (4) of section 6, the Director shall function as Head of the Department in the office of Director and shall,-
 - (i) keep liaison with the State Government for the development of Fire and Emergency Service;
 - (ii) frame the policies in relation to the development of Fire and Emergency Service in the State and, on approval by the State Government, take steps to implement the same;
 - (iii) prepare and submit plans and proposals to the State Government with regard to the periodical review of fire equipment, fire property and fire manpower for effective implementation of Fire and Emergency Service by the authorities;
 - (iv) take or cause to be taken such effective steps and measures in cases of major fires, house collapse and other emergency services;
 - (v) investigate or cause to be investigated the cause of fire and advise the authorities for implementing fire precautionary measures;

- (vi) recommend the appointment of such number of Officers and staff or employees to the State Government as may be necessary to assist any Fire Officer of the State Fire and Emergency Service, while exercising his powers or discharging his duties or functions under this Act or the rules made there under;
- (vii) implement the effective Human Resource Development policies in accordance with the prescribed jobs at each level of fire service personnel and for that purpose, he may establish advance training centers;
- (viii) represent the State Government on National and International forums with a view to updating the standard of Fire and Emergency Service in the State;
- (ix) exercise such other powers and perform such other duties and functions as may be conferred, imposed or allotted to him by or under the provisions of this Act.

8. Setting up of Fire Stations

- (1) For the purpose of providing adequate number of officers and staff for meeting the needs of fire service, having regard to the population, potential fire hazards in certain industries and large commercial and mercantile establishments and buildings, fire stations required to be provided for and maintained, the State Government may, for the purpose of securing fire prevention and life safety measures within the State, by notification in the *Official Gazette*, constitute as many Fire Stations and other field formations as it deems fit.
- (2) Every notification issued under sub-section (1) shall define the limits of the Fire Stations and other field formations to which it relates.
- (3) Define the limits and extent of Fire Stations and other field formations as may be necessary for administrative and operational efficiency.
- (4) Appointment of Fire Officers:
 - (i) For the purposes of this Act, the State Government may appoint,-
 - (a) A Fire Officer, for each Fire Station who shall be officer-in-charge of a Fire Station and shall hold charge of a Fire Station as per the size of the Fire Service as specified by the State Government. He shall have staff attached under him to the Fire Station.
 - (b) He shall be responsible for maintenance of communication system, water resources including hydrants within his station areas, and shall be in charge of operations of Fire and Emergency Service.
 - (c) Similar arrangements may be provided for other field formations, if any.
 - (ii) The qualifications for appointment and other conditions of service of the Officers, appointed under sub-clause 5(i), shall be such as may be prescribed in the rules.
 - (iii) For the purpose of this Act, the State Government for each Local Fire Service may by an order direct the local authority or any other authority, as the case may be, to appoint the person to be the Fire Officer and prescribe the norms and qualifications of the Fire Officer.

(5) **Powers, duties and functions of Fire Officers**

- (i) Subject to the control, direction and superintendence of the Director, the Fire Officer appointed in sub-section (4) of section 8, shall exercise such powers and perform such duties as are conferred and imposed upon him by this Act or rules or orders made hereunder.
- (ii) Without prejudice to the provisions of sub-section (i), in case of fire prevention and disaster, the Fire Officer or officers appointed under sub-section (4) of this section, for their jurisdiction, shall, in case of any fire or emergency, act as Commanding Officer for that event and other Fire and Emergency Service engaged shall work under his supervision.

9. Issue of Certificate to the employees of Fire and Emergency Service

- (1) Every person shall, on appointment to the Fire and Emergency Service, receive a certificate in the prescribed form under the signatures of the Chief Fire Officer/ Director or an officer authorized in this behalf by the State Government and thereupon such person shall have the powers, functions and privileges of an employee of the Fire and Emergency Service under this Act.
- (2) The certificate referred to in sub-section (1) shall cease to have effect when the person named therein ceases for any reason to be an employee of the Fire and Emergency Service and on his ceasing to be such employee, he shall forthwith surrender the certificate to any officer empowered to receive the same.
- (3) A certificate of appointment shall become null and void when the person named therein ceases to belong to the Fire and Emergency Service or shall remain inoperative during the period or such person is suspended from the Fire and Emergency Service.
- (4) The employees of the Fire and Emergency Service shall be governed by such rules as are applicable to State Government employees and the Discipline and Appeal rules applicable to Sikkim Police in relation to the terms and conditions of their service and all other allied matters.

10. Auxiliary Fire and Emergency Service

Whenever, it appears to the State Government that it is necessary to augment the Fire and Emergency Service, it may raise an auxiliary service by enrolment of volunteers for such area and on such terms and conditions as it may deem fit as per the rules made hereunder.

11. Effect of suspension of Fire Officer

The powers, functions and privileges vested in a Fire Officer shall remain suspended while such Fire Officer is placed under suspension:

Provided that notwithstanding such suspension, such person shall continue to be subject to the control of same authorities to which he would have been had he not been placed under suspension.

CHAPTER III

FIRE AND EMERGENCY RESPONSE

12. Response to Calls

The Fire Officer appointed by the State Government shall respond to all fire and emergency related calls as per Standard Operating Procedures prescribed in the Rules. Calls related to any other emergencies shall also be entertained by the Fire and Emergency Service by order and as per the rules made hereunder.

13. Personnel and scale of equipment

The Director or Fire Officer shall ensure deployment of Fire and Emergency Service, resources, equipment and fire personnel at stand-by duties during any fire response or any other emergency as specified in the rules.

14. Operation Management

The Director or Fire Officer shall provide details of planning, organizing and deployment of the staff and ensure regular monitoring of the site as per rules.

15. Powers of Employees of the Fire and Emergency Service on the occurrence of fire and/or rescue

On the occurrence of fire and/or rescue in any area in which this Act is in force, any member of the Fire and Emergency Service, who is in-charge of fire-fighting operations on the spot, may-

- (a) remove, or order any other member of the Fire and Emergency Service to remove any person who by his presence interferes with or impedes the operation for extinguishing the fire or for saving life or property;
- (b) close any street or passage in or near which a fire is being caught and / or rescue work is in progress;
- (c) for the purpose of extinguishing fire and carrying out rescue operation, break into or through or pull down, any premises for the passage of hose or appliances or cause them to be broken into or through or pulled down, doing as little damage as possible for the purpose of extinguishing fire:

Provided that, the owner or occupier, as the case may be, of any such premises shall be paid reasonable compensation to the extent of the damage so caused in such manner as may be prescribed in the rules.

- (d) require the Authority in charge of water supply in the area to regulate the water mains so as to provide water at a specified pressure at the place where fire has broken out and utilize the water of any stream, cistern, well or tank or of any available source of water, public or private, for the purpose of extinguishing or limiting the spread of such fire and carrying out rescue operations as prescribed in the rules;

- (e) exercise the same powers for dispersing an assembly of persons likely to obstruct the fire-fighting operations as if he were an officer-in-charge of a police station and as if such an assembly were an unlawful assembly and shall be entitled to the same immunities and protection as such an officer, in respect of the exercise of such powers;
- (f) arrest a person who willfully obstructs and hinders a Fire and Emergency Service personnel in fire-fighting and rescue operations and shall hand him over to a police officer or at the nearest police station without avoidable delay along with a brief note giving the time, date and reason of arrest;
- (g) enter into agreement with any person who employs and maintains personnel or equipment or both for fire-fighting purposes, to secure, on such terms as may be prescribed, for the purpose of dealing with fires occurring in any area;
- (h) take such measures as may appear to him to be necessary for extinguishing the fire or for the protection of life or property, or both.

CHAPTER IV

WATER SUPPLY

16. Power to arrange for water supply during emergency

It shall be lawful for the Director or Fire Officer of the fire-fighting operations to draw water from any source in the area which he considers necessary during fire-fighting operations and on such occasions as may be required and the Authority or owner or occupier having control over such water source shall supply water for that purpose at such rates as may be prescribed.

17. Duty to arrange water supply

The Director or Fire Officer shall take all reasonable measures for securing that an adequate supply of water will be available for the use in the event of fire as per the rules.

18. Power to enter into Agreement for Water Supply

The Director or Fire Officer may enter into an agreement with an agency for meeting demand of water supply and emergent need of water as per the procedures and terms and conditions for the payment to the third party, prescribed under the rules.

19. No compensation for interruption of water supply

No Authority in charge of water supply in any area shall be liable to any claim for compensation for damage by reason of any interruption of supply of water caused in compliance with clause (d) of section 15.

20. Compensation of water

No charge shall be made by any Local Authority for water consumed in fire-fighting operations by the Fire and Emergency Service.

CHAPTER V
GENERAL MEASURES FOR FIRE AND EMERGENCY PREVENTION
AND LIFE SAFETY MEASURES

21. Preventive Measures

- (1) The State Government may, by notification, require owner or occupier of premises in any area or of any class of premises used, which in its opinion, are likely to cause risk of fire, to take such precautions as may be specified in such notification.
- (2) Where such notification has been issued, it shall be lawful for the Director or Fire Officer to direct the removal of objects or goods likely to cause the risk of fire, to a place of safety and on failure by the owner or occupier to do so, the Director or Fire Officer may, after giving the owner or occupier a reasonable opportunity of making the representation, seize, detain or remove such objects or goods.
- (3) The Director or Fire Officer shall ensure that Fire and Emergency Management Plans of the Fire Stations and other field formations should be prepared in conformity with the respective District Disaster Management Plans.

22. Fire Prevention and Life Safety measures in the pandals to be self-regulatory

- (1) Notwithstanding anything contained in this Act, the erectors of pandals shall be deemed to be self-regulators for taking fire prevention and life safety measures prescribed under section 21.
- (2) The erector of a pandal shall display at a prominent place in the pandal, a declaration in the prescribed form and under his/her own signature to the effect that he / she has taken all the prescribed fire prevention and fire safety measures therein as notified by the state government.
- (3) It shall be lawful for the Director or Fire Officer to enter and inspect the pandal with a view to verify the correctness of the declaration so made by the erector under sub-section (2) and to point out the shortcomings, if any, with directions to remove them within a specified time. If the directions of the inspecting officer are not complied with within the time so given, the inspecting officer shall seal the pandal.
- (4) Any erector of a pandal who falsely declares that he has complied with the prescribed fire prevention and fire safety measures in the pandal shall be deemed to have committed an offence punishable under section 40 of this Act.

23. Removal of encroachments or objects or goods likely to cause a risk of fire or any obstruction to fire-fighting

- (1) Where a notification has been issued under section 21 and section 22, it shall be lawful for the Director or Fire Officer to direct the removal of encroachments or goods likely to cause a risk of fire or any obstruction to fire-fighting, to a place of safety, and on failure of the owner, occupier or erector, as the case may be, to do so, the Director or Fire Officer may, after giving the owner or occupier or erector, as the case may be, a reasonable opportunity of making representation, report the matter to the Sub-Divisional

Magistrate, in whose territorial jurisdiction the premises or building or pandal is situated, requesting to adjudicate the matter:

Provided that where the Director or Fire Officer considers such encroachments or objects or goods to be an imminent cause of risk of fire or obstruction to fire-fighting, he may direct the owner or the occupier or erector of such premises or building to remove the encroachment or objects or goods forthwith and report the matter to the Sub-Divisional Magistrate accordingly.

- (2) On receipt of a report under sub-section (1), the Sub-Divisional Magistrate shall give, by means of a notice served in such manner as he may think fit, a reasonable opportunity of showing cause against the removal of encroachment or objects or goods likely to cause a risk of fire or obstruction to fire-fighting.
- (3) After giving the owner or occupier or erector, as the case may be, a reasonable opportunity of making representation under sub-section (2), the Sub-Divisional Magistrate may make an order to seize, detain or remove such encroachments or objects or goods as per prescribed rules.
- (4) The person charged with the execution of the order as made in sub-section (3) shall forthwith make an inventory of the objects and goods which he seizes under such order, and shall, at the same time, give a written notice as may be prescribed in this behalf, to the person in possession thereof at the time of seizure, that the said objects or goods will be sold as therein mentioned if the same are not claimed within the period stipulated in the said notice.
- (5) On the failure of the person in whose possessions the objects or goods were at the time of seizure to claim the seized goods pursuant to notice given under sub-section (4), the Sub-Divisional Magistrate shall sell them accordingly by public auction.

24. Owner or Occupiers liability to provide Fire Prevention and Life Safety Measures

- (1) Without prejudice to the provisions of National Building Codes of India, Model Building Bye-laws, 2016 by Ministry of Urban Development, Government of India, any other law or Bye-Laws, the owner or the occupier, who are either individually or jointly responsible, of a building as classified by regulations or part thereof, shall provide fire prevention and life safety measures therein:

Provided that the owner or the occupier, as the case may be, shall,-

- a. provide minimum fire-fighting and life safety installations as provided in the bye-Laws;
 - b. maintain the fire prevention and life safety measures in operational condition at all times, in the manner and specifications specified in bye-Laws.
- (2) Notwithstanding anything contained in any law for the time being in force, no authority empowered to issue the occupancy certificate, shall issue the same, unless it is satisfied that the owner or the occupier, either individually or jointly, has complied with the provision as given in sub-section (1) of this section.

- (3) Without prejudice to the existing Building Bye laws applicable and enforcement of National Building Codes by the State, following buildings shall obtain 'Fire Safety Certificate' from Fire and Emergency Service;
- (i) Multistoried buildings having more than 15 meter height from the plinth;
 - (ii) Special buildings like educational, institutional, assembly, business, mercantile, industrial, storage and hazardous buildings as defined in National Building Code, 2016;
 - (iii) Mixed occupancies with any of the aforesaid occupancies having more than 500 square meters area.
- (4) Owners of Buildings, under sub-section (3), shall ensure that such multi-storied or special buildings be equipped with automatic sprinkler systems, fire alarms and fire extinguishers to prevent or extinguish fire, as per the prescribed rules.
- (5) The owner or occupier, as the case may be, shall furnish to the Fire Officer, a certificate in the prescribed form issued by a qualified agency / Third Party Auditor regarding the compliance of the fire prevention and life safety measures in his building or part thereof, as required by or under the provisions of this Act, and shall also furnish to the Fire Officer a certificate in the prescribed form twice a year in the months of January and July regarding the maintenance of fire prevention and life safety measures in good repair and efficient condition as specified in sub-section (1) of this section.
- (6) No person other than the qualified agencies, as specified in the National Building Code of India or rule made under this Act, shall carry out the work of providing fire prevention and life safety measures or performing such other related activities required to be carried out in any place or building or part thereof.
- (7) The State Government may by notification in the official Gazette provide the condition for recognition, registration and licensing of Qualified Agency or Third Party Auditor.

25. Issue of Fire Safety Certificate

- (i) The Fire Officer shall scrutinize the compliances with regard to the requirement of section 24 made by owners or occupiers or applicant, as the case may be, either independently or jointly, after making necessary inquiry, if any, issue fire safety certificate within a month of the application subject to the condition that all necessary documents, designs, maps, completion certificates etc. shall be submitted by the owner or occupier or applicant.
- (ii) If the owner or occupier, as the case may be, fails to comply with the directions issued by the Fire Officer, the fire safety certificate, issued under section 24 of this Act, shall be cancelled after giving owner or occupier an opportunity of hearing to show-cause.
- (iii) The owner or occupier of the building or premises, whose fire safety certificate has been cancelled due to default on his part, shall not be entitled to occupy the building or premises on the ground of non-compliance of fire prevention and life safety measures under section 24.
- (iv) No person shall tamper with, alter, remove or cause any injury or damage to any fire prevention and life safety equipment installed in any such building or part thereof or instigate any other person to do so.

26. Appointment and Functions of Fire Safety Officer

- (1) To ensure effective fire prevention and life safety measures of the factory or buildings or premises as may be specified by an order by the State Government in this behalf, every owner and occupier or occupiers individually or jointly, as the case may be,-
 - (a) shall appoint a Fire Safety Officer, having such qualifications as may be prescribed;
 - (b) send the compliance report to the Fire Officer.
- (2) The Fire Safety Officer so appointed under sub-section (1) shall be issued the enrolment certificate by the Fire Officer under his signature and seal of the office in the prescribed form.
- (3) In case of a vacancy of the Fire Safety Officer appointed under sub-section (1), either on resignation or otherwise, the owner and occupier or occupiers individually or jointly, as the case may be, shall be required to immediately appoint the fire safety officer.
- (4) In case of the non-appointment of the Fire Safety Officer, as envisaged under sub-section (1), the Fire Officer may take such steps as he deems necessary, which includes report to the Labour Commissioner for the closure of the factory and in other cases to the relevant authority for necessary action under relevant law.
- (5) The Fire Safety Officers shall undergo training at the Fire and Emergency Service Training Institute as may be specified by the State Government in this behalf:

Provided that a person who has already undergone such training at the National Fire Service College, Nagpur or at any other equivalent institution recognized by the State Government, shall not be required to undergo such a training.

27. Power of Inspection

- (1) The Director or Fire Officer may, after giving three hours' notice to the occupier, or if there is no occupier, to the owner of any place or building or part thereof, enter and inspect such place or building or part thereof at any time between sunrise and sunset where such inspection appears necessary for ascertaining the adequacy or contravention of fire prevention and life safety measures:

Provided that, the Director or Fire Officer may enter into and inspect any such place or building or part thereof at any time if an industry is working or an entertainment is going on at such place, building or part thereof, or if it appears to him to be expedient and necessary to do so in order to ensure safety to life and property.

- (2) The Director or Fire Officer shall be provided with all possible assistance by the owner or occupier, as the case may be, of such place or building or part thereof for carrying out the inspection under sub-section (1).
- (3) The owner or occupier or any other person shall not obstruct or cause any obstruction to the entry of a person empowered or authorized under this section into or upon any land or building or shall not molest such person after such entry for inspection.

- (4) When any such place or building or part thereof used as a human dwelling is entered under sub-section (3), due regard shall be paid to the social and religious sentiments of the occupiers; and before any flat, apartment or a part of such building in the actual occupancy of any woman, who, according to the custom does not appear in public, is entered under sub-section (3), notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.
- (5) Where the inspection is carried out by the Fire Officer under the preceding provisions of this section, he shall give a report of any such inspection to the Director or Fire Officer of the authority concerned.
- (6) The Director or Fire Officer shall, after completion of the inspection of the place or building or part thereof under this section, record his views on the deviations from or the contraventions of, the requirements with regard to the fire prevention and life safety measures or the inadequacy or non-compliance of such measures provided or to be provided therein with reference to the height of the building or the nature of activities carried on in such place or building or part thereof and issue a notice to the owner or occupier of such building or part thereof directing him to undertake such measures within such time as may be specified in the notice.

28. Information on outbreak of fire

Any person who possesses any information regarding an outbreak of fire shall communicate the same without delay to the nearest fire station.

CHAPTER VI OFFENCES AND PENALTIES

29. Offences and Penalties

Whoever contravenes any provision of this Act shall be liable for penalties as specified herein.

30. Penalties for violation of provisions of Chapter IV (Water Supply)

Whoever contravenes any provisions of Chapter IV shall, without prejudice to any other action taken against him under this Act and rules made hereunder, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to fifty thousand rupees, or with both and where the offence is a continuing one with a further fine which may extend to three thousand rupee for every day after the first during which such offence continues.

31. Penalty for violation of Duty

Notwithstanding any action which may be taken under the provisions of this Act, any member of the Fire and Emergency Service who-

- (1) is found to be guilty of any violation of duty or willful breach of any provision of this Act or any rule or order made hereunder; or

- (2) is found to be guilty of cowardice; or
- (3) withdraws or abstains from the duties of his office without permission or without having given previous notice for fifteen days or more; or
- (4) being absent on leave fails without reasonable cause to report himself for duty on expiration of such leave; or
- (5) accepts any other employment or office or engages himself in business in contravention of the provision of the relevant service rules shall be punishable with imprisonment which may extend to three months or with fine which may extend to an amount not exceeding three months' pay of such member, or with both.

32. Penalty in case of non-appointment of Fire Safety Officers

- (1) If any owner or occupier or an association of such owners and occupiers of a building or premises fails to appoint under section 26, fire safety officers within thirty days, of the receipt of a notice given in this behalf by the Director or the Fire Officer, as the case may be, each one of them shall be deemed to be in default jointly and severally.
- (2) When the person liable for appointment of such Fire Safety Officers is deemed to be in default, such sum not less than ten rupees per square meter and not exceeding fifty rupees per square meters of area owned/ occupied by him including the common areas in the premises as determined by the Director, may be recovered from him by way of penalty for each month of default or part thereof.
- (3) The amount due as penalty under sub-section (2) shall be recovered under Sikkim Public Demands Recovery Act, 2006 (14 of 2006).

33. Liability of property owner to pay compensation

- (1) Any person whose property catches fire on account of an action of his own or of his agent done deliberately or negligently shall be liable to pay compensation to any other person suffering damage to his property on account of any action taken under section 15 of this Act by an officer mentioned therein or any person acting under the authority of such officer.
- (2) All claims under sub-section (1) shall be referred to the Appellate Authority, within thirty days from the date when the damage was caused.
- (3) The Appellate Authority shall within 30 days as specified in section 44, after giving the party an opportunity of being heard, determine the amount of compensation due and pass an order stating such amount and the person liable for the same, and the order so passed shall have the force of a decree of a civil court.

34. Failure to give information

Any person, who without adequate justification, fails to communicate information in his possession regarding an outbreak of fire shall be deemed to have committed an offence punishable under the first part of section 176 of the Indian Penal Code, 1860 (45 of 1860).

35. Failure to take precautions

Whoever fails without reasonable cause to comply with any of the requirements specified in a notification issued under sub-section (1) of section 21 or of a direction issued under the section shall be punishable with fine which may extend to Ten thousand rupees or with imprisonment for a term which may extend to three months, or with both and where the offence is a continuing one with a further fine which may extend to One thousand rupees for every day after the first during which such offence continues.

36. Penalty for willfully obstructing the fire-fighting, rescue operations

Any person who willfully obstructs or interferes with any member of the Fire and Emergency Service, who is engaged in fire-fighting operations, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to Ten thousand rupees, or with both.

37. False report

Any person who knowingly gives or causes to be given a false report of the outbreak of a fire to any person authorized to receive such report by means of a statement, message or otherwise shall be punishable with imprisonment which may extend to three months or with fine which may extend to ten thousand rupees, or with both.

38. General provision for punishment for offence

Whoever contravenes any provision of this Act or of any rule or notification made hereunder shall, without prejudice to any other action taken against him under this Act and the rules made hereunder, be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees or with both and where the offence is a continuing one with a further fine which may extend to one thousand rupees for every day after the first during which such offence continues.

39. Offences by Companies

- (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part, of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this section,-

- (a) 'Company' means a body corporate and includes a firm or other association of individuals; and
- (b) 'Director', in relation to a firm, means a partner in the firm.

40. Compounding of offences

- (1) Any offence whether committed before or after the commencement of this Act punishable under sections 32, 33, 34, 35, 36, 37, 38 or any rule made under this Act, may either before or after the institution of prosecution, be compounded by such officers of the Fire and Emergency Service and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf:

Provided that no offence shall be compoundable which is committed by failure to comply with a notice, order or requisition issued by or on behalf of the State Government or of any of the officers authorized under this Act and until the same has been complied with so far as the compliance is possible.

- (2) Where an offence has been compounded under sub-section (1), the offender if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence.

41. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or any rules made hereunder.

42. Cognizance of prosecution

No court shall proceed to the trial of an offence under this Act, except on the complaint of, or upon information received from, the Director or the officer authorized by him in this behalf.

43. Jurisdiction

No court inferior to that of a Sub-Divisional Judicial Magistrate / Judicial Magistrate/ Additional Chief Judicial Magistrate having jurisdiction shall try an offence punishable under this Act.

CHAPTER VII

APPEALS

44. Appeals

- (1) Any person aggrieved by any notice or order of the Sub-Divisional Magistrate or Fire officer or the Chief Fire Officer/ Dy. Chief Fire Officer issued or made under this Chapter may prefer an appeal against such notice or order to the Appellate Authority within thirty days from the date of the notice or order appealed against:

Provided that the Appellate Authority may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

- (2) An appeal to the Appellate Authority shall be made in such form and shall be accompanied by a copy of the notice or order appealed against and by such fees as may be prescribed.
- (3) An order of the Appellate Authority on an appeal shall be referred to the Director General of Police (DGP) and his decision shall thereon be deemed to be final.

CHAPTER VIII

TRAINING

45. Establishment of Fire and Emergency Training Institute

- (1) The State Government may establish or augment or designate and maintain one or more training centres in the State for providing courses of instruction in the prevention and extinguishment of fire and may close down or re-establish any such centre or institute.
- (2) The State Government may extend the training facilities at the academy to be established under sub-section (1) to the Fire and Emergency Service under the control of local bodies and industrial undertakings as well as to the State Fire and Emergency Service of other States on payment of charges as may be prescribed.
- (3) The State Government may prescribe such fee and such procedure as it may deem fit for providing a course of instruction in the prevention and extinguishment of fire.
- (4) Subject to the observance of general rules applicable to other employees of the Government in relation to training, the employees of the Fire and Emergency Service may be given training in the field of scientific and modern techniques of fire protection and fire safety measures, and allied matters in any institute, within or out of India at the cost and expense of the State Government for the administration of the provisions of this Act.

46. Community Preparedness

The Director or Fire Officer shall conduct community awareness and training programmes on preventive measures on fire and other emergencies. The Fire and Emergency Service shall render assistance and consultation to the communities in matters related to fire prevention as per the rules made hereunder.

CHAPTER IX

LEVY OF FIRE SAFETY/USER CHARGES, FEE AND OTHER CHARGES

47. Levy of fire safety/user charges

- (1) There may be levied a fire safety/user charges on Lands and Buildings which are situated in any area in which this Act is in force and on which property tax is levied.

- (2) The fire safety/user charges shall be levied in the form of a surcharge on the property tax at such rate in terms of percentage of such property tax as the Government may, by notification in the Official Gazette, determine from time to time.
- (3) The State Government may decide any fee on any building vested in or under the control or possession of the Government or public Authority owned by the Government.

48. Mode of assessment, collection, etc. of fire safety/user charges

- (1) The authorities empowered to assess, collect and enforce payment of property tax under the law authorizing the local authority of the area to levy such tax shall, on behalf of the State Government and subject to any rules made under this Act, assess, collect and enforce payment of the fire safety/user charges in the same manner as the property tax is assessed, paid and collected; and for this purpose, they may exercise all or any of the powers they have under the law aforesaid and the provisions of such law including provisions relating to returns, appeals, reviews, references and penalties shall apply accordingly.
- (2) Such portion of the total proceeds of the fire safety/user charges as the State Government may determine shall be deducted to meet the cost of collection of the fire safety/user charges.
- (3) The proceeds of the fire safety/user charges collected under this Act reduced by the cost of collection shall be paid to the State Government in such manner and at such intervals as may be prescribed.

49. Fee on deployment of Fire and Emergency Service beyond the limits of the State

- (1) Where employees of the Fire and Emergency Service are sent beyond the limits of the State, in order to extinguish a fire in the neighborhood of such limits on the request of any State Government or local body or Fire and Emergency Service authority, such State Government or local body or Fire and Emergency Service Authority shall be liable to pay such fee as may be prescribed by the State Government, from time to time, in this behalf.
- (2) The fee referred to in sub-section (1) shall be payable within one month of the service of a notice of demand by the Director on the State Government or local body or Fire and Emergency Service authority, as the case maybe, and if it is not paid within that period, it shall be recoverable as an arrear of land revenue.

50. Recovery of Dues

Any amount payable under this Act shall be recovered under the Sikkim Public Demands Recovery Act, 2006 (14 of 2006)

CHAPTER X

FIRE PREVENTION AND LIFE SAFETY FUND

51. Constitution of Fund

- (1) There shall be constituted a fund to be known as "Fire Prevention and Life Safety Fund".

- (2) The proceeds of fire fees, user charges and penalties (other than fines) recovered under this Act, may be credited to the Consolidated Fund of the State and after deduction of the expenses of collection and recovery therefrom, under appropriation duly made by law in this behalf, be entered in, and transferred to, fund constituted under sub-section (1), as may be prescribed.
- (3) Any amount transferred to the fund under sub-section (2) shall be charged on the Consolidated Fund of the State.
- (4) The amount of the fund may be expended in such manner and under such conditions as may be prescribed, for the purposes of this Act.
- (5) The fund shall be reflected into the budget estimate of the Department and the accounts in respect thereof shall be maintained and audited in accordance with the procedure prescribed for the purpose of maintenance of accounts.
- (6) The fund shall be utilized for community preparedness, training and procurement of fire-fighting equipments as prescribed in the rules.

CHAPTER XI

MISCELLANEOUS

52. Reciprocal fire-fighting arrangements with other Fire and Emergency Service

The Director may, with the previous sanction of the State Government, enter into an agreement with any Fire and Emergency Service or the Authority which maintains the said Fire and Emergency Service, beyond the limits of any area in which this Act is in force for providing personnel or equipment or both, for fire-fighting purposes, on such terms as may be provided by or under the agreement on reciprocal basis in public interest.

53. Declaration of Fire and Emergency Service as Technical Service

Without Prejudice to the provisions of any other law on the subject for the time being in force, the State Government may, by notification in the Official Gazette, declare the Fire and Emergency Service as Technical Service.

54. Deployment to other area

The Director or any Fire Officer authorized by the State Government in this behalf may, on the occurrence of a fire or other emergency in any neighboring area in which this Act is not in force, order the dispatch of the employees of the Fire and Emergency Service with necessary appliances and equipment to carry out fire-fighting operations in such neighboring area and thereupon all the provisions of this Act, as far as Fire and Emergency measures is concerned, and the rules made there under shall apply to such areas, during the period of fire emergency or during such period as the Director may specify on such charges as may be prescribed from time to time.

55. Employment on other duties

It shall be lawful for the State Government or any officer authorized by it in this behalf, to employ the Fire and Emergency Service in any rescue, salvage or other works for which it is suitable by reason of its training, appliances and equipment.

56. Power to obtain information

The Director or employees of Fire and Emergency Service, authorized by general or special order in this behalf may, for the purpose of discharging his duties under this Act, require the owner or occupier of any building or other property as may be specified to supply information with respect to the character of such building or other property as may be specified, the available water supplies and means of access thereto any other material particulars, and such owner or occupier shall furnish all the information in his possession.

57. Power to Seal Building or Premises, Search, Seizure and Survey

- (1) Where, on receipt of a report from the Fire Officer under sub-section (5) of section 24, or *suo-moto*, it appears to the Director that the condition of any building or premises is dangerous to life or property, he shall, without prejudice to any action taken under this Act, by order, require the person in possession or occupation of such building or premises to remove themselves from such building or premises forthwith.
- (2) If an order made by the Director under sub-section (1) is not complied with, the Director may direct any police officer having jurisdiction in the area to remove such persons from the building or premises and such officer shall comply with such directions.
- (3) After the removal of the persons under sub-section (1) or sub-section (2), as the case may be, the Sub Divisional Magistrate on report of the Fire Officer or Director shall seal the building or premises.
- (4) No person shall remove such seal except under an order made by the Sub Divisional Magistrate.
- (5) Any person, who removes such seal except under an order made by the Sub Divisional Magistrate, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to twenty five thousand rupees, or with both.
- (6) Where it appears to the Director or an officer not below the rank of Dy. Chief Fire Officer that there is reasonable ground to believe that a premises is used in contravention of section 24, he may authorise any officer not below the rank of Sub Fire Officer to enter into such premises with such assistance including assistance from the police as may be reasonably required, to search the said premises and to seize any hazardous or explosive substances, fireworks, fire rockets or fire balloons found therein, including any document or other evidence relating to the acquisition, processing, storing or sale of such items:

Provided that the provisions contained in sections 100 and 102 of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to such search and seizure.

- (7) Where any hazardous or explosive substances, fireworks, fire rockets or fire balloons are found in any premises the occupier of such premises shall be deemed to be in possession of such substance unless he proves that some other person was in possession thereof, or that he had no knowledge or reasonable means of knowledge that such substance was in or on such premises.
- (8) The Director or an officer-in-charge of a fire station duly authorised by him in this behalf may enter into or upon any premises with or without assistants in order to make an inspection, test, examination, survey, measurement, weighment, valuation or enquiry for the purpose of carrying into effect the provisions of this Act or of any rules made here-under or to obtain information for fire-fighting purposes with respect to the character and feature of the premises and other property within the local jurisdiction, the available water supplies at the means of access thereto and other relevant local circumstances which, in his opinion, is necessary to obtain for any of the purposes or in pursuance of any of the provisions of this Act or any such rules:

Provided that-

- (a) no such entry shall be made after sunset and before sunrise;
- (b) no dwelling house and no public building which is used as dwelling place shall be so entered except with the consent of the occupier thereof, without giving the said occupier previous notice in writing, of at least 24 (twenty four) hours, of the intention to make such entry
- (c) notwithstanding the power to enter any such premises or place conferred, sufficient notice of such entry shall in every instance be given to enable the inmates of any apartment appropriated to females to withdraw to some part of the premises where their privacy may not be disturbed;
- (d) due regard shall be had so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usage of the occupants of the premises entered.

The Director or the officer in charge referred to shall not use any force for the purpose of effecting any entry under the said sub-section unless:-

- (i) such entry cannot otherwise be effected; and
- (ii) there is reason to believe that an offence is being, or has been, committed against any provision of this Act or any rules made there-under.
- (9) Any person aggrieved by an Order of Sub Divisional Magistrate under sub section 3 may file an appeal before the District Magistrate.

Except when expressly provided under this Act or in any rules made here-under, no claim shall lie against any person for compensation for any damage necessarily caused by any entry made under this sub-section or by the use of any necessary force under this sub-section.

58. Police officers and others to aid

In fire-fighting operations or any other duties related to seizure, detention or removal of any goods involving risk of fire, it shall be the duty of a police officer or employees of the police force to assist and aid the Director or such Fire Officer in performance of such duties under this Act.

59. Fire and Emergency Service functioning in the State immediately before the commencement of this Act to be deemed to be Sikkim Fire and Emergency Service constituted under this Act

Without prejudice to the provisions contained in any other law for the time being in force –

- (1) the Fire and Emergency Service functioning in State before the commencement of this Act (hereafter in this section referred to as 'the existing State Fire and Emergency Service') shall, on such commencement, be deemed to be the Sikkim Fire and Emergency Service constituted under this Act and every member of the existing State Fire and Emergency Service holding the office, shall be deemed to be appointed and to hold the office, under this Act;
- (2) all proceedings pending before any Fire Officer of the existing State Fire and Emergency Service, immediately before the commencement of this Act be deemed to be proceedings pending before him in his capacity as the holder of the office to which he is deemed to be appointed under sub-section (1) and shall be dealt with accordingly.

60. Death of member of Fire and Emergency Service

In the event of a member of the Fire and Emergency Service (other than a Gazetted officer), dying while on duty, the State Government shall pay adequate amount to the next of kin as funeral expenses or such amount as the State Government may by an order determine.

61. Officers to be public servants

Every employee of Fire and Emergency Service, acting under the provisions of this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

62. Calling of returns, reports, statements, etc.

The State Government may call for such returns, reports and statements on any subject connected with fire prevention and fire safety, the maintenance of order and the performance of duties by the Director, fire officers, operational employees, employees and subordinate operational staff, and the same shall be furnished immediately.

63. Power to make Rules

- (1) The State Government may by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for –
- (a) recruitment to, and the pay and allowances and all other conditions of service of the employees of the State Fire and Emergency Services;
 - (b) constitution of fire stations and other field formations;
 - (c) form of certificate of appointment and fire officer under whose seal such certificate of appointment shall be issued;
 - (d) mode of assessment, collection and enforcement of payment of fire tax;
 - (e) manner in which fire tax collected shall be paid to State Government;
 - (f) fee on deployment of Fire and Emergency Service beyond the limits of State, terms for reciprocal fire-fighting arrangements with other Fire and Emergency Service;
 - (g) the minimum standards for fire prevention and fire safety measures form of declaration, appeal, notice and fees under this Act;
 - (h) charges for extending training facilities at Fire and Emergency Service Academy to others;
 - (i) Offence under Fire and Emergency Service, and the amount for compounding of offences;
 - (j) making available to the Fire and Emergency Service with such appliances and equipment as it deems proper;
 - (k) the adequate supply of water to secure that it shall be available for use;
 - (l) constructing or providing fire stations or hiring places for accommodating the employees of the Fire and Emergency Service and its fire-fighting appliances;
 - (m) giving rewards to persons who have given information of fires and to those who have rendered effective service to the Fire and Emergency Service on the occurrence of fires;
 - (n) the training, discipline and good conduct of the employees of the Fire and Emergency Service;
 - (o) speedy attendance of employees of the Fire and Emergency Service with necessary appliances and equipment on the occasion of any alarm of fire;
 - (p) regulating and controlling the powers, duties and functions of the Director;
 - (q) generally, for the maintenance of the Fire and Emergency Service in a due state of efficiency;
 - (r) regulating installation of pandals and temporary structure;

- (s) writing of confidential reports of fire officers;
 - (t) determining the description and quantity of fire fighting and rescue equipment including appliances, clothing and other necessities to be furnished to the Fire and Emergency Service;
 - (u) institution, management and regulation of any Fire and Emergency Service fund for any purpose connected with policy administration;
 - (v) assigning duties to fire officers of all ranks and grades, and prescribing the manner in which and the conditions subject to which, they shall exercise and perform their respective powers and duties;
 - (w) generally, for the purposes of rendering the Fire and Emergency Service efficiently and preventing abuse or neglect of their duties; and
 - (x) Any other matter which is required to be, or may be, provided by the Rules.
- (3) Every rule made by the State Government under this Act shall be laid as soon as may be after it is made before the Legislative Assembly of Sikkim while it is in session, provided that if the Sikkim Legislative Assembly agrees in making any modifications in the rule or agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

64. Delegation of powers

- (1) The State Government may by notification in the Official Gazette direct that any power exercisable by it under this Act shall, subject to such conditions, if any, as may be specified in the notification be exercisable by any of the officers of the State Government.
- (2) The Director may, by order, direct that any power conferred or any duty imposed on him by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised and, performed also by any officer of the Fire and Emergency Service specified in the order.

65. Repeal and Savings

The Sikkim Fire Services Act, 1981(ACT No. 9 of 1981) is hereby repealed.

66. Power to remove Difficulties

- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the commencement of this Act.

- (2) Every order made under this section shall be laid, as soon as may be after it is issued, before the Sikkim Legislative Assembly.

67. Act to have overriding effect and effect of other laws

- (1) The provisions of this Act shall have overriding effect notwithstanding anything contained in any other law for the time being in force, in so far as the provisions relating to fire prevention and life safety are concerned.
- (2) Notwithstanding anything contained in any other law for the time being in force, when anything in relation to the fire prevention and life safety measures is required to be done or approved under this Act, any such thing shall not be deemed to have been unlawfully done or approved by reason only of the fact that permission, approval or sanction required under such other law therefore has not been obtained.
- (3) The provisions of this Act and the Rules made hereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any other law.
- (4) Subject to the provisions of sub-section (3), the provisions of this Act shall be in addition to, and not, save as expressly provided hereinabove, be in derogation of the provisions of any relevant law for the time being in force in any area in which this Act is in force.

68. Requisition of Fire-fighting property

Where the Director or Fire Officer, who is in-charge of a fire-fighting or any emergency operation requires fire-fighting equipment and appliance or property of any other Authority or any institution or individual, he may by order requisition of such equipment or property for the purpose of extinguishing fire or any other emergencies in any area and take possession thereof from the Authority or any institution or individual, as the case may be.

69. Special promotion to the subordinate operational staff

To encourage outstanding sportsmen, marks men, officers who have shown exceptional gallantry and devotion to duty in saving the life and property, the Director may, with the prior approval of the State Government, promote such officers out of turn to the next higher rank subject to availability of vacancies. Such promotions shall not exceed ten percent of the sanctioned strength in such ranks. For purposes of seniority such promotee shall be placed at the bottom of the promotion list drawn up for that year.

SURAJ CHETTRI (SSJS)
L.R.-cum-SECRETARY
LAW & PARLIAMENTARY AFFAIRS DEPARTMENT

